

§ 5f.442-1

26 CFR Ch. I (4-1-01 Edition)

pursuant to TEFRA section 208(d)(2)(B), the provisions of section 168(f)(8)(J), but not the provisions of section 168(i)(1), will apply only to such property. If the general transitional rule does not apply to a specific mass commuting vehicle, the provision of section 168(i)(1) applies to the lessor who leases such vehicle.

Q-18: Does the definition of a qualified mass commuting vehicle include component parts of a qualified mass commuting vehicle—such as an undercarriage of a subway car or the costs of rehabilitation or reconstruction of a mass commuting vehicle (or component part thereof)?

A-18: Yes.

[T.D. 7850, 47 FR 50853, Nov. 10, 1982, as amended by T.D. 7879, 48 FR 11942, Mar. 22, 1983]

§ 5f.442-1 Temporary regulations relating to change of annual accounting period.

(a) *In general.* Notwithstanding paragraph (c) (1) and (2) of § 1.442-1 of the Income Tax Regulations, a corporation which—

(1) Is described in section 934(b) and is an inhabitant of the Virgin Islands (within the meaning of section 28(a) of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1642)), or

(2) Has in effect an election under section 936 may change its taxable year only if it secures the prior approval of the Commissioner in accordance with paragraph (b)(1) of § 1.442-1.

(b) *Effective date.* This section shall apply only if the statement described in paragraph (c)(1) of § 1.442-1 is filed after September 3, 1982.

[T.D. 7864, 47 FR 57921, Dec. 29, 1982; 48 FR 3367, Jan. 25, 1983]

§ 5f.6045-1 Returns of information of brokers and barter exchanges.

(a)–(b) [Reserved]

(c) *Reporting by brokers.*

(1)–(2) [Reserved]

(3) *Exceptions*—(i) *Sales effected for exempt recipients*—(A) *In general.* No return of information is required with respect to a sale effected for a customer that is an exempt recipient as defined in paragraph (c)(3)(i)(B) of this section.

(B) *Exempt recipient defined.* The term “exempt recipient” means—

(1) A corporation as defined in section 7701(a)(3), whether domestic or foreign;

(2) An organization exempt from taxation under section 501(a) or an individual retirement plan;

(3) The United States or a State, the District of Columbia, a possession of the United States, a political subdivision of any of the foregoing, a wholly-owned agency or instrumentality of any one or more of the foregoing or a pool or partnership composed exclusively of any of the foregoing;

(4) A foreign government, a political subdivision thereof, an international organization or any wholly-owned agency or instrumentality of the foregoing;

(5) A foreign central bank of issue (as defined in § 1.895-1(b)(1) as a bank which is by law or government sanction the principal authority, other than the government itself, issuing instruments intended to circulate as currency);

(6) A dealer in securities or commodities registered as such under the laws of the United States or a State;

(7) A futures commission merchant registered as such with the Commodity Futures Trading Commission;

(8) A real estate investment trust (as defined in section 856);

(9) An entity registered at all times during the taxable year under the Investment Company Act of 1940;

(10) A common trust fund (as defined in section 584(a));

(11) A financial institution such as a bank, mutual savings bank, savings and loan association, building and loan association, cooperative bank, home-stead association, credit union, industrial loan association or bank, or other similar organization; or

(12) A person registered under the Investment Advisers Act of 1940 who regularly acts as a broker within the meaning of paragraph (a)(1) of § 1.6045-1.

The terms used in this paragraph (c)(3)(i)(B) shall have the same meaning as those contained in 26 CFR 31.3452(c)-1 (revised as of April 1, 1983). A broker may treat any person described in paragraph (c)(3)(i)(B) (1) through (11) of this section as an exempt recipient without requiring such person to file an exemption certificate if the conditions of 26 CFR 31.3452(c)-1

(revised as of April 1, 1983) are satisfied. A broker may treat any person described in paragraph (c)(3)(i)(B)(12) of this section as an exempt recipient without requiring such person to file an exemption certificate if the person's status as a registered investment adviser who regularly acts as a broker within the meaning of paragraph (a)(1) of § 1.6045-1 is known generally in the investment community. Alternatively, a broker can require any exempt recipient to file an exemption certificate and may treat an exempt recipient who fails to file such certificate as a recipient which is not exempt.

(ii) *Multiple brokers.* In the case of a sale in which a broker is instructed to initiate the sale by a person that is an exempt recipient described in paragraph (c)(3)(i)(B) (6), (7), (11), or (12), of this section, no return of information is required with respect to the sale by the broker so instructed. In the case of a redemption of stock or retirement of securities, only the broker responsible for paying the holder redeemed or retired, or crediting the gross proceeds on the sale to such holder's account, is required to report the sale.

(iii) *Cash on delivery transactions.* In the case of a sale of securities through a "cash on delivery" account, a "delivery versus payment" account, or other similar account or transaction, only the broker which receives the gross proceeds from the sale against delivery of the securities sold is required to report the sale. If, however, such broker's customer is another broker ("second-party broker") which is an exempt recipient, then only the second-party broker is required to report the sale.

(iv) *Custodians, trustees and partnerships.* No return of information is required with respect to a sale effected by a custodian or trustee in its capacity as such or a redemption of a partnership interest by a partnership provided the sale is otherwise reported by the custodian or trustee on a properly filed Form 1041 or the redemption is otherwise reported by the partnership on a properly filed Form 1065, and all Schedule K-1 reporting requirements are satisfied.

(v) *Sales at issue price.* No return of information is required with respect to a sale of an interest in a regulated in-

vestment company (within the meaning of section 851) that computes its current price per share for purposes of distributions, redemptions, and purchases so as to stabilize the price per share at a constant amount that approximates its issue price or the price at which it was originally sold to the public.

(vi) *Obligor payments on certain obligations.* No return of information is required with respect to payments representing obligor payments on—

(A) Nontransferable obligations (including savings bonds, savings accounts, checking accounts, and NOW accounts);

(B) Obligations as to which the entire gross proceeds are reported by the broker on Form 1099 under provisions of the Internal Revenue Code other than section 6045 (including stripped coupons issued prior to July 1, 1982); or

(C) Retirement of short-term obligations (i.e., obligations with a fixed maturity date not exceeding one year from the date of issue) that have original issue discount, as defined in section 1232(b)(1).

(vii) *Callable obligations.* No return of information is required with respect to payments representing obligor payments on demand obligations that also are callable by the obligor and that have no premium or discount.

(viii) *Foreign currency.* No return of information is required with respect to a sale of foreign currency other than a sale pursuant to a forward contract or regulated futures contract that requires delivery of foreign currency.

(ix) *Fractional share.* No return of information is required with respect to a sale of a fractional share of stock if the gross proceeds on the sale of the fractional share are less than \$20.

(x) *Certain retirements.* No return of information is required from an issuer or its agent with respect to the retirement of book entry or registered form obligations as to which the relevant books and records indicate that no interim transfers have occurred.

(4) *Examples.* The following examples illustrate the application of the reporting requirements:

Example (1). A, an individual who is not an exempt recipient, places an order with B, a person generally known in the investment

community to be a federally registered broker/dealer, to sell A's stock in a publicly traded corporation. B, in turn, places an order to sell the stock with C, a second broker, which will execute the sale. B discloses to C the identity of the customer placing the order. C is not required to make a return of information with respect to the sale because C was instructed by B, an exempt recipient as defined in paragraph (c)(3)(i)(B)(6) of this section, to initiate the sale. B is required to make a return of information with respect to the sale.

Example (2). The facts are the same as in Example (1) except that B has an omnibus account with C so that B does not disclose to C whether the transaction is for a customer of B or for B's own account. C is not required to make a return of information with respect to the sale because C was instructed by B, an exempt recipient as defined in paragraph (c)(3)(i)(B)(6) of this section, to initiate the sale. B is required to make a return of information with respect to the sale.

Example (3). D, an individual who is not an exempt recipient, enters into a "cash on delivery" ("COD") stock transaction by instructing K, a federally registered broker/dealer, to sell stock owned by D, and to deliver the proceeds to L, a custodian bank. In addition, concurrently with the above instructions, D instructs L to deliver D's stock to K (or K's designee) against delivery of such proceeds from K. The records of both K and L with respect to this transaction show an account in the name of D. Pursuant to paragraph (h)(1) of §1.6045-1, D is considered the customer of K and L. Under paragraph (c)(3)(iii) of this section, K is not required to make a return of information with respect to the sale because K will pay the gross proceeds to L against delivery of the securities sold. L is required to make a return of information with respect to the sale.

Example (4). The facts are the same as in Example (3) except that E, a federally registered investment adviser who regularly acts as a broker within the meaning of paragraph (a)(1) of §1.6045-1, instructs K to sell stock owned by D and to deliver the proceeds to L. In addition, concurrently with the above instructions, E instructs L to deliver D's stock to K (or K's designee) against delivery of such proceeds from K. The records of both K and L with respect to this transaction show an account in the name of E. Pursuant to paragraph (h)(1) of §1.6045-1, E is considered the customer of K and L. Under paragraph (c)(3)(iii) of this section, K is not required to make a return of information with respect to the sale because K will pay the gross proceeds to L against delivery of the securities sold. In addition, L is not required to make a return of information with respect to the sale because L's customer, E, is another broker which is an exempt recipient. E is required to make a return of infor-

mation with respect to the sale. The result would be the same even if the records of K and L with respect to this transaction show an account in the name of D.

Example (5). F, an individual who is not an exempt recipient, owns bonds that are held by G, a federally registered broker/dealer, in an account for F with G designated as nominee for F. Upon the retirement of the bonds, the gross proceeds are automatically credited to the account of F. G is required to make a return of information with respect to the retirement because G is the broker responsible for making payment of the gross proceeds to F.

[T.D. 7960, 49 FR 22282, May 29, 1984]

PART 6a—TEMPORARY REGULATIONS UNDER TITLE II OF THE OMNIBUS RECONCILIATION ACT OF 1980

Sec.

6a.103A-1 Interest on mortgage subsidy bonds.

6a.103A-2 Qualified mortgage bond.

6a.103A-3 Qualified veterans' mortgage bonds.

6a.6652(g)-1 Failure to make return or furnish statement required under section 6039C.

AUTHORITY: 26 U.S.C. 7805.

Sections 6a.103A-2(k), (l), and (m) also issued under 26 U.S.C. 103A(j) (3), (4), and (5).

§6a.103A-1 Interest on mortgage subsidy bonds.

(a) *In general*—(1) *Mortgage subsidy bond.* A mortgage subsidy bond shall be treated as an obligation not described in section 103 (a)(1) or (a)(2). Thus, the interest on a mortgage subsidy bond is includable in gross income and subject to Federal income taxation.

(2) *Exceptions.* Any qualified mortgage bond and any qualified veterans' mortgage bond shall not be treated as a mortgage subsidy bond. See §6a.103A-2 with respect to requirements of qualified mortgage bonds and §6a.103A-3 with respect to requirements of qualified veterans' mortgage bonds.

(3) *Additional requirement.* In addition to the requirements of §6a.103A-2, §6a.103A-3, and this section, qualified mortgage bonds and qualified veterans' mortgage bonds shall be subject to the requirements of section 103(c) and the regulations thereunder.